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| 09/904,697      | 07/13/2001  | Michael Ehrhart      | 283-300             | 4756             |

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EXAMINER

PITTS, HAROLD I

ART UNIT

PAPER NUMBER

2876

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6

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                            |                        |
|------------------------------|----------------------------|------------------------|
| Application No.<br>09/904697 | Applicant(s)<br>B R R Hart |                        |
| Examiner<br>Hart             | Pitts                      | Group Art Unit<br>3876 |

\*U.S. GPO: 1998-454-457/97505

Art Unit: 2876

Rejections will be based on the following criteria the criteria for applicant and/or counsel is ordinary skill in the art, i.e, a knowledged of all prior art including the ability to read, comprehend and to point out the claimed invention compared to the prior art concepts. The applicant is considered to have the pertinent prior art before him during conception and reduction to practice of the invention in light of this prior art including drafting the specification and claims. The applicant is considered to be aware that to merely substitute or additionally employ one or more teachings of one or more of the references before him in a combinational sense would clearly be within the purview of obviousness, the motivation being the skilled artisan's recognition of the interchangeable teachings of similar systems and the expedient of a substitutive or an additive employment of one or more prior art system concepts to provide a particular solution or to bring about a desired result.

35 USC 112 rejections:

- a. The disclosure like the claims must point out the invention. A disclosure in which the lexicography is unclear. Vague convoluted or incomplete does not comply with the statute.
- b. A disclosure which merely discusses prior art concepts without really setting a forth on independently arrived at enabling disclosure does not comply.
- c. Claims based on a disclosure as above or are vague, incomplete or merely expressions or desired results do not comply with the statute.

35 USC 103 rejections and motivation.

Art Unit: 2876

The criteria here is a skilled artisan who is looking first to the prior art for aid in the conception and reduction to practice phase of inventing and who is technologically skilled in the research of patent and other documentation and in the employment of prior art concepts in substitutive and additive combinations to address and implement a system, having collected and subjected the pertinent prior art (such as cited here in) and viewing the prior art technique of employing the desired inventive concepts in or more combinations to provide successfully similar solutions and which considered in combination address applicant's's essential inventive concept, would find in such an addressing the suggestion or suggestions or motivation that the prior art concepts might be successfully employed in combination as set forth in applicant's claims.

35 USC 102 rejections;

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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Claims 1-83 are rejected under 35 USC 112. Multiple sets of claims obscures rather than points out the invention. Read each claim term by term on the drawing and show unity of invention or make election.

As understood, all claims are rejected under 35 USC 102/103 over <sup>ERH 11/12/8</sup> Which teaches the essential system in view of the concomitant cited prior art which teaches that color coding is Garden variety.

Pitts/ds

06/05/02

  
Harold J. Pitts  
Primary Examiner